

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4464 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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GYANCHAND M THAKUR

Versus

MANAGER

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Appearance:

MR KV GADHIA for Petitioner

MR SN SOPARKAR for Respondent No. 1

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CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 22/10/1999

ORAL JUDGEMENT

1. Learned Advocate Mr. K. V. Gadha is appearing on behalf of the petitioner workman and Mr. A.K. Clerk is appearing on behalf of the respondent company.

2. The brief facts of the case is that the petitioner workman was working with the respondent company since many years and because of the fact that the workman has joined the union, his service was terminated

on 6th September, 1982, without following legal procedure, and therefore, the petitioner workman had raised industrial dispute before the Labour Court, Ahmedabad, being Reference No. 152/83 in which the Labour Court issued notice to the respondent Company but no-one appeared on behalf of the respondent company before the Labour Court. Thereafter, the Labour Court had decided the said Reference in absence of the respondent company and granted reinstatement in service with continuity of service but without awarding any backwages of interim period. The Labour Court has denied the backwages on the ground that the workman has expressed his desire to keep him on duty and therefore, the said award was passed by the Labour Court, Ahmedabad on 24th December, 1986. The said award is challenged by the workman in the present petition. In this petition Rule has been issued on 8/9/87. At the time of hearing, no-one is appeared on behalf of the petitioner workman and learned advocate Mr. A.K. Clerk is appearing on behalf of the respondent company. Learned advocate for the respondent Company has produced on record letters dtd. 1/8/87, 1/9/87 and 23/9/87, which were written by the respondent company to the petitioner workman, informing him to resume duty, according to the direction which has been issued by the Labour Court, Ahmedabad, in its award. According to Mr. Clerk, the learned advocate appearing for the respondent company, the workman has not reported for duty till today, inspite of three letters at the relevant time were sent by Regd. A.D. to the petitioner workman, therefore, naturally the presumption is that the workman is not interested in job.

3. I have considered the submissions of Mr. Clerk, learned advocate for the respondent company and also facts on record produced by Mr. Clerk that inspite of three letters written by the respondent company informing him to resume duty, the petitioner workman has so far not reported on duty. I have perused the award passed by the Labour Court wherein the Labour Court has denied the backwages on the ground that the workman had expressed his desire to keep him on duty and also not stated anything in his affidavit about his backwages, which are sufficient ground not to grant backwages of interim period to the petitioner workman, and therefore, the Labour Court has not committed any error and therefore there is no infirmity in the award and the award passed by the Labour Court is reasoned award with application of mind which does not require any interference from this Court while exercising powers under Articles 226 and 227 of the Constitution of India and therefore this petition deserves to be dismissed and the same dismissed

accordingly.

Rule is discharged. NO order as to costs.

Sd/-

Date : 22/10/1999. (H.K. RATHOD, J.)

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